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HOUSE BILL 626

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Mimi Stewart

FOR THE FUNDING FORMULA STUDY TASK FORCE

AN ACT

RELATING TO TAXATION; AMENDING THE OIL AND GAS EMERGENCY SCHOOL TAX ACT TO EQUALIZE AT FOUR PERCENT THE RATE OF TAX ON ALL PRODUCTS SUBJECT TO THE TAX; DISTRIBUTING A PORTION OF THE REVENUE FROM THE OIL AND GAS EMERGENCY SCHOOL TAX TO THE PUBLIC SCHOOL FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-31-4 NMSA 1978 (being Laws 1959, Chapter 54, Section 4, as amended) is amended to read:

"7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

A. There is levied and shall be collected by the department a privilege tax on the business of every person severing products in this state. The measure of the tax shall .170670A.3

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1 be four percent of the taxable value determined pursuant to
2 Section 7-31-5 NMSA 1978 [~~(1)~~] on oil and on oil and other
3 liquid hydrocarbons removed from natural gas at or near the
4 wellhead; [~~except as provided in Paragraphs (4) and (5) of this~~
5 ~~subsection, three and fifteen hundredths percent of the taxable~~
6 ~~value determined pursuant to Section 7-31-5 NMSA 1978;~~

7 ~~(2)] on carbon dioxide, helium and non-~~
8 ~~hydrocarbon gases; [three and fifteen hundredths percent of the~~
9 ~~taxable value determined pursuant to Section 7-31-5 NMSA 1978;~~

10 ~~(3)] and on natural gas. [~~except as provided~~
11 ~~in Paragraphs (6) and (7) of this subsection, four percent of~~
12 ~~the taxable value determined pursuant to Section 7-31-5 NMSA~~
13 ~~1978;~~~~

14 ~~(4) on the oil and on other liquid~~
15 ~~hydrocarbons removed from natural gas at or near the wellhead~~
16 ~~from a stripper well property, one and fifty-eight hundredths~~
17 ~~percent of the taxable value determined pursuant to Section~~
18 ~~7-31-5 NMSA 1978, provided that the average annual taxable~~
19 ~~value of oil was equal to or less than fifteen dollars (\$15.00)~~
20 ~~per barrel in the calendar year preceding July 1 of the fiscal~~
21 ~~year in which the tax rate is to be imposed;~~

22 ~~(5) on the oil and on other liquid~~
23 ~~hydrocarbons removed from natural gas at or near the wellhead~~
24 ~~from a stripper well property, two and thirty-six hundredths~~
25 ~~percent of the taxable value determined pursuant to Section~~

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1 ~~7-31-5 NMSA 1978, provided that the average annual taxable~~
2 ~~value of oil was greater than fifteen dollars (\$15.00) per~~
3 ~~barrel but not more than eighteen dollars (\$18.00) per barrel~~
4 ~~in the calendar year preceding July 1 of the fiscal year in~~
5 ~~which the tax rate is to be imposed;~~

6 ~~(6) on the natural gas removed from a stripper~~
7 ~~well property, two percent of the taxable value determined~~
8 ~~pursuant to Section 7-31-5 NMSA 1978, provided that the average~~
9 ~~annual taxable value of natural gas was equal to or less than~~
10 ~~one dollar fifteen cents (\$1.15) per thousand cubic feet in the~~
11 ~~calendar year preceding July 1 of the fiscal year in which the~~
12 ~~tax rate is to be imposed; and~~

13 ~~(7) on the natural gas removed from a stripper~~
14 ~~well property, three percent of the taxable value determined~~
15 ~~pursuant to Section 7-31-5 NMSA 1978, provided that the average~~
16 ~~annual taxable value of natural gas was greater than one dollar~~
17 ~~fifteen cents (\$1.15) per thousand cubic feet but not more than~~
18 ~~one dollar thirty-five cents (\$1.35) per thousand cubic feet in~~
19 ~~the calendar year preceding July 1 of the fiscal year in which~~
20 ~~the tax rate is to be imposed.]~~

21 B. Every interest owner, for the purpose of levying
22 this tax, is deemed to be in the business of severing products
23 and is liable for this tax to the extent of [his] the owner's
24 interest in the value of the products or to the extent of [his]
25 the owner's interest as may be measured by the value of the

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1 products.

2 C. Any Indian tribe, Indian pueblo or Indian is
3 liable for this tax to the extent authorized or permitted by
4 law."

5 Section 2. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
6 Chapter 65, Section 6, as amended) is amended to read:

7 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
8 SUSPENSE FUND--DISTRIBUTION.--

9 A. Except as provided in Subsection B of this
10 section, after the necessary disbursements have been made from
11 the extraction taxes suspense fund, the money remaining in the
12 suspense fund as of the last day of the month shall be
13 identified by tax source and distributed or transferred in
14 accordance with the provisions of Sections 7-1-6.21 through
15 7-1-6.23 and 7-1-6.59 NMSA 1978. After the necessary
16 distributions and transfers, any balance, except for
17 remittances unidentified as to source or disposition, shall be
18 transferred to the general fund.

19 B. Payments on assessments issued by the department
20 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
21 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
22 Production Tax Act and the Oil and Gas Severance Tax Act shall
23 be held in the extraction taxes suspense fund until the
24 secretary determines that there is no substantial risk of
25 protest or other litigation, whereupon after the necessary

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1 disbursements have been made from the extraction taxes suspense
2 fund, the money remaining in the suspense fund as of the last
3 day of the month attributed to these payments shall be
4 identified by tax source and distributed or transferred in
5 accordance with the provisions of Sections 7-1-6.21 through
6 7-1-6.23 and 7-1-6.59 NMSA 1978. After the necessary
7 distributions and transfers, any balance, except for remittance
8 unidentified as to source or disposition, shall be transferred
9 to the general fund."

10 Section 3. A new section of the Tax Administration Act,
11 Section 7-1-6.59 NMSA 1978, is enacted to read:

12 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION--PUBLIC SCHOOL
13 FUND.--A distribution pursuant to Section 7-1-6.20 NMSA 1978
14 shall be made to the public school fund in an amount equal to
15 twelve and one-half percent of the net receipts attributable to
16 the tax imposed pursuant to the Oil and Gas Emergency School
17 Tax Act."

18 Section 4. APPLICABILITY.--The distribution pursuant to
19 Section 3 of this act applies to revenue earned on a modified
20 accrual basis after June 30, 2008.

21 Section 5. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2008.